

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF WASHINGTON,
M7D CORPORATION,

Plaintiffs,

v.

FENIX DIAMONDS LLC,

Defendant.

Civil Action No. 1:20-cv-00200-JSR

**DECLARATION OF MICHAEL CHAJON IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

I, Michael Chajon, am an attorney with the firm of Perkins Coie LLP, and counsel for Carnegie Institution of Washington and M7D Corporation. I make this declaration in support of Plaintiffs' Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment.

1. Attached as **Exhibit 1** is a true and correct copy of excerpts of the Expert Report of Michael Capano, Ph.D. Regarding Infringement of U.S. Patent Nos. 6,858,078, dated September 18, 2020.

2. Attached as **Exhibit 2** is a true and correct copy of excerpts of the deposition transcript of Russell J. Hemley, taken September 1-2, 2020.

3. Attached as **Exhibit 3** is a true and correct copy of excerpts of the Expert Report of Karen K. Gleason, Ph.D. Regarding Validity of U.S. Patent No. 6,858,078 and RE41,189, dated October 9, 2020.

4. Attached as **Exhibit 4** is a true and correct copy of excerpts of the deposition transcript of Amit Mehta, taken July 22, 2020.

5. Attached as **Exhibit 5** is a true and correct copy of a June 18, 2019 email [REDACTED]
[REDACTED] produced in this litigation bearing Bates No. FD0087413.

6. Attached as **Exhibit 6** is a true and correct copy of Plaintiffs' Second Set of Requests to Fenix for the Production of Documents and Things (No. 92), dated June 4, 2020.

7. Attached as **Exhibit 7** is a true and correct copy of a July 19, 2020 letter from Nicole Kopinski to Terrence J. Wikberg.

8. Attached as **Exhibit 8** is a true and correct copy of excerpts of the deposition transcript of Michael Capano, taken October 20, 2020.

9. Attached as **Exhibit 9** is a true and correct copy of U.S. Patent No. 10,100,433 to Nebel et al. for Substrate Holder, Plasma Reactor and Method for deposition Diamond, issued October 16, 2018.

10. Attached as **Exhibit 10** is an article by Chih-Shiue Yan and Yogesh K. Vohra titled *Multiple Twinning and Nitrogen Defect Center in Chemical Vapor Deposited Homoepitaxial Diamond*, 8 *Diamond & Related Materials*, 2022–031 (1999).

11. Attached as **Exhibit 11** is a true and correct copy of excerpts of the deposition transcript of Karen K. Gleason, taken October 22, 2020.

12. Attached as **Exhibit 12** is a true and correct copy of excerpts of the deposition transcript of J. Michael Pinneo, taken October 16, 2020.

13. Attached as **Exhibit 13** is a true and correct copy of excerpts of the Expert Report of J. Michael Pinneo, Ph.D. Regarding Invalidity of U.S. Patent Nos. RE41,189 and 6,858,078, dated September 18, 2020.

14. Attached as **Exhibit 14** is a true and correct copy of excerpts of the Responsive Expert Report of J. Michael Pinneo, Ph.D. Regarding Non-Infringement of U.S. Patent No. 6,858,078, dated October 9, 2020.

15. Attached as **Exhibit 15** is a true and correct copy of excerpts of Defendant Fenix Diamonds LLC's Objections and Responses to Plaintiffs' First Set of Requests for Admission (Nos. 1–169), dated October 19, 2020.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Dated this 28th day of October 2020.

s/ Michael Chajon
Michael Chajon